

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SINGULAR COMPUTING LLC,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

C.A. No. 1:19-cv-12551-FDS

Hon. F. Dennis Saylor IV

**DEFENDANT GOOGLE LLC'S
UNOPPOSED MOTION TO IMPOUND/SEAL DESIGNATED MATERIAL**

Pursuant to Local Rule 7.2 and the Protective Order in this case (“Protective Order”), (Dkt. No. 87), Defendant Google LLC (“Google”) respectfully requests that this Court impound (seal) the following materials filed in support of (i) Google’s Motion for Summary Judgment of Non-Infringement (Dkt. No. 460), (ii) Google’s *Daubert* Motion to Exclude Certain Opinion Testimony of Philip Green (Dkt. No. 476), and (iii) Google’s *Daubert* Motion to Exclude Certain Opinion testimony of Sunil Khatri (Dkt. No. 479) filed today:

1. An un-redacted copy of Google’s Memorandum of Law in support of its Motion for Summary Judgment of Non-Infringement.
2. An un-redacted copy of Google’s Statement of Undisputed Material Facts in support of its Motion for Summary Judgment of Non-Infringement.
3. Certain exhibits to the Declaration of Vishesh Narayan (“Narayan Declaration”) that accompanies Google’s Motion for Summary Judgment of Non-Infringement.
4. An un-redacted copy of Google’s Memorandum of Law in support of its Motion to Exclude Certain Opinion Testimony of Philip Green.
5. Certain exhibits to the Declaration of Michelle Ybarra (“Ybarra Declaration”) that

accompanies Google's Motion to Exclude Certain Opinion Testimony of Philip Green.

6. An un-redacted copy of Google's Memorandum of Law in support of its *Daubert* Motion to Exclude Certain Opinion Testimony of Sunil Khatri.

7. Certain exhibits to the Declaration of Asim Bhansali ("Bhansali Declaration") that accompanies Google's Motion to Exclude Certain Opinion Testimony of Sunil Khatri.

The exhibits to be sealed are identified below.

The following exhibits to the Narayen Declaration contain information that Google has designated as containing "Highly Confidential – Attorneys' Eyes Only" information; including, for example, highly confidential information about the technical details of Google's TPUv2 and TPUv3 accused products.

- **Exhibit 1:** Expert Report of Dr. Sunil Khatri, served on December 22, 2022.
- **Exhibit 2:** Expert Report of Martin Walker, Ph. D., served on March 3, 2023.
- **Exhibit 3:** July 14, 2021 deposition transcript of Andrew Phelps.
- **Exhibit 4:** March 23, 2023 deposition transcript of Dr. Sunil Khatri.

The following exhibits to the Ybarra Declaration contain information that Google has designated as containing "Highly Confidential – Attorneys' Eyes Only" information; including, for example, highly confidential information about the technical details of Google's TPUv2 and TPUv3 accused products as well as highly confidential financial information regarding Google's business.

- **Exhibit A:** Expert Report of Mr. Philip Green, served on December 22, 2022.
- **Exhibit B:** Expert Report of Dr. Sunil Khatri, served on December 22, 2022.
- **Exhibit C:** Google's Training Chips Revealed: TPUv2 and TPUv3 (GOOG-SING-00027590).

- **Exhibit D:** Excerpts from the deposition of Mr. Philip Green on March 23, 2023.
- **Exhibit E:** Platforms for Machine Learning October 2017 (GOOG-SING-00239048).
- **Exhibit F:** Excerpts from the deposition of Mr. Philip Isaak on March 21, 2023.
- **Exhibit G:** Google Platforms for Machine Learning 2019 Session 2: TPU Architecture (GOOG-SING-00144591).
- **Exhibit H:** Google TPuv2 and TPuv3 versus Volta (GOOG-SING-00101399).

The following exhibits to the Bhansali Declaration contain information that Google and Singular have designated as containing “Highly Confidential – Attorneys’ Eyes Only” or “Highly Confidential Source Code – Attorneys’ Eyes Only” information; including, for example, confidential information; specifically, information about how Google’s accused tensor processing units (TPUs) operate..

- **Exhibit 1:** Excerpts of the rebuttal expert report of Dr. Martin Walker.
- **Exhibit 2:** Excerpts of the transcript of the March 23, 2023 deposition of Dr. Sunil Khatri.
- **Exhibit 3:** Opening expert report of Dr. Sunil Khatri, served on December 22, 2022.
- **Exhibit 4:** Excerpts of the transcript of the March 24, 2023 deposition of Dr. Sunil Khatri.
- **Exhibit 5:** Rebuttal expert report of Dr. Sunil Khatri.

The Protective Order allows a party producing documents in discovery to designate documents as “Confidential” after making a good-faith determination that the documents contain information that is “confidential, proprietary, and/or commercially sensitive information,” and to

designate documents as “Highly Confidential – Attorneys’ Eyes Only” after making a good-faith determination that the documents contain information that is extremely confidential and/or sensitive in nature and the disclosure of such documents is likely to cause economic harm or significant competitive disadvantage. Protective Order ¶¶ 6-7. That Order requires that a party intending to make court filings referring to such Protected Material bring a motion to impound. *Id.* ¶ 14.

Google’s above-identified memoranda, statement of undisputed facts, and exhibits contain either (1) sensitive business information designated Confidential under the Protective Order, public disclosure of which would risk competitive harm to Google, Singular, and/or third parties or (2) confidential information designated Highly Confidential – Attorneys’ Eyes Only under the Protective Order that is extremely confidential and/or sensitive in nature and the disclosure of such documents is likely to cause Google economic harm or significant competitive disadvantage.

Additionally, Google has filed redacted versions of its Memoranda, each of which redacts discussions of the same Google confidential information discussed above and included in some of the aforementioned exhibits, public disclosure of which would risk competitive harm to Google.

Submission of the above-identified memoranda, statement of undisputed facts, and exhibits is necessary to permit the Court to fully evaluate the issues raised in Google’s motions. Google therefore brings this Motion to Impound to seal the above-identified exhibits as well as an un-redacted confidential version of Google’s Memoranda.

For the foregoing reasons, Google respectfully requests that the Court permit it to file the above-identified exhibits under seal. Google further requests that the documents remain impounded until further order by the Court, and that upon expiration of the impoundment that the

documents be returned to Google's counsel.

Respectfully submitted,

Dated: April 28, 2023

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LOCAL RULE 7.1(a)(2) CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), I certify that, on April, 27, 2023, counsel for Defendant Google LLC and counsel for Plaintiff Singular Computing LLC met and conferred in good faith regarding resolution of this motion. Counsel for Plaintiff stated that it does not oppose the relief requested in this motion.

/s/ Nathan R. Speed

Nathan R. Speed

CERTIFICATE OF SERVICE

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail on the date of electronic filing.

/s/ Nathan R. Speed

Nathan R. Speed